

Remarks/Arguments:

Claims 33-59 are pending and rejected in the application. Claims 33, 42 and 51 have been amended. No new matter has been added.

On page 5, the Official Action rejects claims 33, 35-36, 38-42, 44-45, 47-51 and 53-55 under 35 U.S.C. § 103(a) as being unpatentable over O'Toole, Jr. et al. (US 7,673,048) in view of O'Neill et al. (US 2003/0224758). It is respectfully submitted, however, that the claims are patentable over for at least the reasons set forth below.

Applicants' invention, as recited by claim 33, includes features which are neither disclosed nor suggested by the art of record, namely:

... wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication, and is used by the data processing apparatus to perform direct tunnel communication with the other data processing apparatus bypassing the access apparatus.

Claim 33 relates to sustain data which indicates a connection time for direct tunnel communication. The sustain data is utilized by the data processing apparatus to perform direct tunnel communications with another data processing apparatus bypassing an access apparatus. For example, two client devices (two data processing apparatus) are both able to perform tunnel communication based on the sustain data. Once the client device has the sustain data, it bypasses the access apparatus and perform direct tunnel communication with the other client device. Support for these features can be at least found on page 9 and 25 of Applicants' specification and furthermore, shown in Fig. 21. No new matter has been added.

On pages 3 and 4 of the Official Action, the Examiner states that since O'Toole's access node is not involved in the actual tunnel communication, then tunnel communication is being performed exclusive of the access node. Applicants, however, respectfully disagree with the Examiner. Although access node 605 is not performing tunnel operations, it acts as an intermediary that passes along

communications between home mobile agent 632 and end node. Specifically, the communications are passed through access node 605 (i.e., they do not bypass access node 605 and therefore, home agent 632 and end node 604 cannot perform direct tunnel communication with each other.

Thus, in both Fig. 4 of O'Toole Jr. and Fig. 10 of O'Neill, the access node (i.e., gateway 34-1 and access node 605 are utilized such that tunnel communication can be performed between home agent 632 and end node 604, and between client device 30 and destination device 36M. Thus, even if O'Toole, Jr.'s system was modified by O'Neill's pass-through access node 605, the access node 605 would still be between the client device 30 and destination device 36-M (i.e., the access node will not be bypassed and therefore client device 30 and destination device 36-M can not perform direct tunnel communication with each other).

Applicants' claim 33 is different than the art of record because two data processing apparatuses perform direct tunnel communication with each other by bypassing an access apparatus (*"wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication, and is used by the data processing apparatus to perform direct tunnel communication with the other data processing apparatus bypassing the access apparatus"*).

As shown in Fig. 21, two data processing apparatuses 1 and 2 are able to perform direct tunnel communication with each other (the access apparatus is not in between the apparatus 1 and 2). Specifically, data processing apparatus 1 is able to obtain sustain data from access apparatus 7. Once the sustain data is obtained, tunnel communication can be sustained directly between data processing apparatus 1 and data processing apparatus 2 without relying on access apparatus 7 (i.e., access apparatus 7 is bypassed during tunnel communication). Accordingly, for the reasons set forth above, claim 33 is patentable over the art of record.

Independent claims 42 and 51 include similar features to claim 33. Thus, independent claims 42 and 51 are also patentable over the art of record for at least the reasons set forth above.

Dependent claims 35-36, 38-42, 44-45, 47-50 and 53-55 include all of the

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features of claims from which they depend. Thus, these claims are also patentable over the art of record for at least the reasons set forth above.

On page 11, the Official Action rejects claims 34, 37, 43, 46, 52 and 56-59 under 35 U.S.C. § 103(a) as being unpatentable over O'Toole, Jr., in view of O'Neill and further in view of King (US 2002/0194292). King is relied upon for using sustain data to judge whether to cancel tunnel communication or not. King, however, does not make up for the deficiencies of O'Toole, Jr. and O'Neill. Thus, dependent claims 34, 37, 43, 46, 52 and 56-59 are also patentable over the art of record for at least the reasons set forth above.

In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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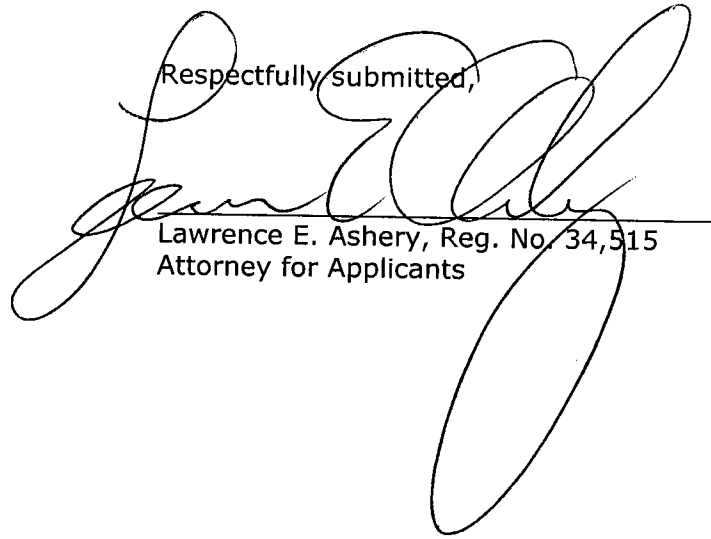
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In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to Lawrence E. Ashery, is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

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